

### **REMARKS/ARGUMENTS**

This Amendment and the following remarks are intended to fully respond to the Office Action dated February 11, 2005. In that Office Action claims 1-13 were examined, and all claims were rejected. More specifically, claims 10 and 12 stand rejected under 35 U.S.C. § 101 because the claimed inventions, respectively, are directed to non-statutory subject matter; and claims 1-9, 11 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brealey et al. (USPN 6,026,401), in view of Groza "Distributed Framework for Instrumentation Hardware/Software Codesign".

In this Response, claims 10 and 12 have been amended; no new claims have been added; and no claims have been canceled.

#### **Claim Rejections – 35 U.S.C. § 101**

Claims 10 and 12 stand rejected under 35 U.S.C. § 101 because the claimed inventions, respectively, are directed to non-statutory subject matter. Specifically, the Office Action propounds that the computer code alone is not statutory subject matter. Claims 10 and 12 have been amended as set forth above to alleviate any concerns under 35 U.S.C. 101.

#### **Claim Rejections – 35 U.S.C. § 103**

Claims 1-9, 11 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brealey et al. (USPN 6,026,401), in view of Groza "Distributed Framework for Instrumentation Hardware/Software Codesign".

In order to establish *prima facie* obviousness under 35 U.S.C. 103(a), three basic criteria must be met, namely: (1) there must be some suggestion or motivation to combine the references or modify the reference teaching; (2) there must be a reasonable expectation of success; and (3) the reference or references when combined must teach or suggest each claim limitation (Manual of Patent Examining Procedure §2142). Applicant submits that the Office Action failed to state a *prima facie* case of obviousness, and therefore the burden has not properly shifted to Applicant to present evidence of nonobviousness.

Applicant respectfully asserts that the Examiner has failed to establish a *prima facie* case of obviousness because the reference fails to disclose or suggest all of the limitations of the pending claims. Regarding claim 1, Applicant asserts that neither the Brealey et al., nor the Groza references disclose providing a lock token related to the created lock to the requesting client computer system. The Applicant has very carefully read the cited sections of the Brealey et al. reference, and nowhere does it disclose providing a lock token related to the created lock to the requesting client computer system, as required by claim 1 of the present disclosure. Furthermore, nowhere in the Groza reference is this limitation disclosed or suggested. Because the examiner has failed to establish a *prima facie* obviousness under 35 U.S.C. 103(a), Applicant submits that independent claim 1 is allowable over the cited references, and respectfully requests it be allowed. Since claims 2-10 depend from allowable claim 1, Applicant submits they are also allowable, and respectfully requests they be allowed.

Regarding claim 11, Applicant respectfully asserts that the Examiner has failed to establish a *prima facie* case of obviousness because the reference fails to disclose or suggest all of the limitations of the pending claims. Applicant asserts that neither the Brealey et al., nor the Groza references disclose if the resource is locked by another computer system with a conflicting advisory lock then denying access if the requesting client computer system honors advisory lock. The Applicant has very carefully read the cited sections of the Brealey et al. reference, and nowhere does it disclose if the resource is locked by another computer system with a conflicting advisory lock then denying access if the requesting client computer system honors advisory lock, as required by claim 1 of the present disclosure. Furthermore, nowhere in the Groza reference is this limitation disclosed or suggested. Brealey et al. may disclose disregarding a lock if the file has not been changed. However this is very different than an advisory lock and a client not recognizing advisory locks, as disclosed in claim 11 of this disclosure. Because the examiner has failed to establish a *prima facie* obviousness under 35 U.S.C. 103(a), Applicant submits that independent claim 11 is allowable over the cited references, and respectfully requests it be allowed. Since claim 12 depends from allowable claim 11, Applicant submits it is also allowable, and respectfully requests it be allowed.

Regarding claim 13, Applicant respectfully asserts that the Examiner has failed to establish a *prima facie* case of obviousness because the reference fails to disclose or suggest all

of the limitations of the pending claims. Applicant points out that the examiner failed to make any argument for obviousness of claim 13. Furthermore, Applicant asserts that neither the Brealey et al., nor the Groza references disclose any information remotely similar to the limitations of claim 13. Because the examiner has failed to establish a *prima facie* obviousness under 35 U.S.C. 103(a), Applicant submits that independent claim 13 is allowable over the cited references, and respectfully requests it be allowed.

Because the examiner has failed to establish a *prima facie* obviousness under 35 U.S.C. 103(a), Applicant submits that independent claims 1, 11 and 13 are allowable over the cited references, and respectfully requests they be allowed. As all other claims depend from independent claims, 1, 11, and 13, Applicant submits they are also allowable and respectfully requests they be allowed.

### Conclusion

A Request for a one-month extension of time is enclosed with this Response, along with our check in the amount of \$120. It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested.

Dated: May 20, 2005



Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas A. Dougherty".

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